

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Joshua Barrett,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 2:15-cv-2460
	:	
	:	JUDGE GEORGE C. SMITH
Gary Mohr, et al.,	:	Magistrate Judge Kemp
	:	
Defendants.	:	

REPORT AND RECOMMENDATION

On July 30, 2015, Defendant Gary Mohr filed a motion to dismiss. In his responsive memorandum, Plaintiff does not object to the dismissal of Mr. Mohr at this stage of the litigation, but requests that the dismissal be without prejudice and pursuant to Fed.R.Civ.P. 21. At a status conference held on October 26, 2015, counsel for Mr. Mohr stated that she had no objection to this procedure.

This Court has said that "Fed.R.Civ.P. 21 allows the Court to dismiss all claims against individual defendants." Arega v. DeWine, 2015 WL 3755954, \*2 (S.D. Ohio June 16, 2015), adopted and affirmed 2015 WL 4943970 (S.D. Ohio, Aug. 19, 2015), citing Leaf Funding, Inc. v. Donahue, D.C., 2008 WL 2388108, \*2 (S.D. Ohio June 6, 2008). Given the consent of Defendant Mohr to a Rule 21 dismissal, the Court concludes that such dismissal is proper here. Consequently, it is recommended that the claims against Mr. Mohr be dismissed without prejudice under Rule 21 and that the motion to dismiss (Doc. 5) then be denied as moot.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen days of the date of this Report, file

and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A judge of this Court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the magistrate judge with instructions. 28 U.S.C. §636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the district judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir.1981).

/s/ Terence P. Kemp  
United States Magistrate Judge